

House Study Bill 19 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
PUBLIC SAFETY BILL BY
CHAIRPERSON BAUDLER)

A BILL FOR

1 An Act concerning state preemption of firearms, firearm
2 accessories, and ammunition regulation by political
3 subdivisions and providing a remedy.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 724.28, Code 2011, is amended by striking
2 the section and inserting in lieu thereof the following:

3 **724.28 State preemption — prohibition of firearms, firearm**
4 **accessories, and ammunition regulation by political subdivisions.**

5 1. The purpose of this section is to establish complete
6 state control over firearms, firearm accessories, and
7 ammunition regulation and policy in order to ensure that such
8 regulation and policy is applied uniformly throughout this
9 state to each person subject to the state's jurisdiction and to
10 ensure protection of the right to keep and bear arms recognized
11 by the Constitution of the United States. This section is to
12 be liberally construed to effectuate its purpose.

13 2. As used in this section:

14 *a. "Ammunition"* means fixed cartridge ammunition, shotgun
15 shells, the individual components of fixed cartridge ammunition
16 and shotgun shells, projectiles for muzzleloading firearms, and
17 any propellant used in firearms or in firearms ammunition.

18 *b. "Firearm accessory"* means a device specifically adapted
19 to enable the wearing or carrying about one's person, or the
20 storage or mounting in or on a conveyance, of a firearm, or
21 an attachment or device specifically adapted to be inserted
22 into or affixed onto a firearm to enable, alter, or improve the
23 functioning or capabilities of the firearm.

24 *c. "Firearms"* means a pistol, revolver, rifle, shotgun,
25 machine gun, submachine gun, or black powder weapon which is
26 designed to, capable of, or may be readily converted to expel a
27 projectile by the action of an explosive.

28 *d. "Person adversely affected"* means a person who meets all
29 of the following criteria:

30 (1) Lawfully resides within the United States.

31 (2) Can legally possess a firearm under the laws of this
32 state.

33 (3) Either of the following:

34 (a) Would be subject to the ordinance, measure, enactment,
35 rule, resolution, motion, or policy at issue if the person were

1 present within the jurisdictional boundaries of the enacting
2 political subdivision, regardless of whether such person works
3 or resides in such political subdivision.

4 (b) Is a membership organization that includes as a member a
5 person described in subparagraphs (1) and (2) and subparagraph
6 division (a) of this subparagraph and that is dedicated in
7 whole or in part to protecting the rights of those persons
8 who possess, own, or use firearms for competitive, sporting,
9 defensive, or other lawful purposes.

10 e. "*Political subdivision*" means a county, city, township,
11 school district, or any other subunit of this state.

12 3. Except as otherwise provided in this section, the
13 regulation of all of the following is hereby declared to be the
14 exclusive domain of the state:

15 a. Firearms, firearm accessories, and ammunition.

16 b. The ownership, possession, use, discharge, carrying,
17 transportation, registration, transfer, and storage of
18 firearms, firearm accessories, and ammunition.

19 c. Commerce in and taxation of firearms, firearm
20 accessories, and ammunition.

21 d. Any other matter pertaining to firearms, firearm
22 accessories, and ammunition.

23 4. An ordinance, measure, enactment, rule, resolution,
24 motion, or policy adopted by a political subdivision of this
25 state, or an official action taken by an employee or agent of
26 such political subdivision, existing on or after April 5, 2011,
27 in violation of this section, is void.

28 5. This section shall not be construed to prevent any of the
29 following:

30 a. A duly organized law enforcement agency of a political
31 subdivision from promulgating and enforcing rules pertaining to
32 firearms, firearm accessories, or ammunition issued to or used
33 by peace officers in the course of their official duties.

34 b. An employer from regulating or prohibiting an employee
35 from carrying firearms, firearm accessories, or ammunition

1 during and in the course of the employee's official duties.

2 c. A court or administrative law judge from hearing and
3 resolving a case or controversy or issuing an opinion or order
4 on a matter within its jurisdiction.

5 d. The enactment or enforcement of a generally applicable
6 zoning or business ordinance that includes firearms businesses
7 along with other businesses, provided that an ordinance
8 designed or enforced to effectively restrict or prohibit the
9 sale, purchase, transfer, manufacture, or display of firearms,
10 firearm accessories, or ammunition otherwise lawful under the
11 laws of this state, which is in conflict with this section, is
12 void.

13 6. *a.* A person adversely affected by an ordinance, measure,
14 enactment, rule, resolution, motion, or policy promulgated or
15 enforced in violation of this section may file suit in the
16 appropriate court for declarative and injunctive relief and
17 for all actual and consequential damages attributable to the
18 violation. A court shall award the prevailing plaintiff in any
19 such suit all of the following:

20 (1) Reasonable attorney fees.

21 (2) Liquidated damages equal to the amount of three times
22 the attorney fees awarded in subparagraph (1).

23 (3) Litigation costs.

24 (4) Interest on the amounts awarded pursuant to this
25 subsection shall accrue at fifteen percent from the date suit
26 is filed.

27 b. Payment of such fees, damages, costs, and interest may
28 be secured by seizure of any vehicles used or operated for
29 the benefit of any elected office holder in the political
30 subdivision if not paid within seventy-two hours of the court's
31 order.

32	EXPLANATION
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33 Current Code section 724.28 prohibits a political
34 subdivision of the state from enacting an ordinance
35 restricting the ownership, possession, legal transfer, lawful

1 transportation, registration, or licensing of firearms when the
2 ownership, possession, transfer, or transportation is otherwise
3 lawful under state law.

4 This bill strikes this Code section and provides that the
5 regulation of firearms, firearm accessories, and ammunition
6 is declared to be the exclusive domain of the state. The
7 bill provides that an ordinance, measure, enactment, rule,
8 resolution, motion, or policy of a political subdivision of
9 this state, or an official action of an employee or agent of
10 such political subdivision, existing on or after April 5, 2011,
11 in violation of the bill, is void.

12 The bill shall not be construed to prevent a law enforcement
13 agency of a political subdivision from promulgating and
14 enforcing rules pertaining to firearms, firearm accessories,
15 or ammunition issued to or used by peace officers in the
16 course of their official duties; an employer from regulating
17 or prohibiting an employee from carrying firearms, firearm
18 accessories, or ammunition during and in the course of the
19 employee's official duties; a court or administrative law judge
20 from hearing and resolving a case or controversy or issuing
21 an opinion or order on a matter within its jurisdiction;
22 and enacting or enforcing a generally applicable zoning or
23 business ordinance that includes firearms businesses along
24 with other businesses, provided that an ordinance which is
25 designed or enforced to effectively restrict or prohibit the
26 sale, purchase, transfer, manufacture, or display of firearms,
27 firearm accessories, or ammunition otherwise lawful under the
28 laws of this state, which is in conflict with the bill, is
29 void.

30 The bill provides that a person adversely affected by an
31 ordinance, measure, enactment, rule, resolution, motion,
32 or policy promulgated or enforced in violation of the bill
33 may file suit in the appropriate court for declarative and
34 injunctive relief and for all actual and consequential
35 damages attributable to the violation and may, if successful,

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1 be awarded reasonable attorney fees, liquidated damages,
2 litigation costs, and interest.